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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,840	01/26/2007	Lafon Guy	149659.00002	1226

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EXAMINER

IEVA, NICHOLAS

ART UNIT	PAPER NUMBER
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2836

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10/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/596,840	Applicant(s) GUY ET AL.	
	Examiner Nicholas Ieva	Art Unit 2836	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/11/2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. **Claims 13 and 14** are objected to because of the following informalities: claim 13 recites the limitation "the resistive element" in first line of the claim, and claim 14 recites the limitation "the resistive element" in last two lines of the claim. There is insufficient antecedent basis for this limitation in the claim. For the purpose of applying prior art to these claims this limitation is being interpreted as "a resistive element" instead of "the resistive element." Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-14** are rejected under 35 U.S.C. 102(b) as being anticipated by **Engel et al. (US 3,911,322)**, which was supplied in the applicant's information disclosure statement.

Consider **claims 1, 8 and 12**, Engel et al. teaches a method of protecting electrical equipment against transient surges in which the electrical equipment is

connected to a protector device **14** (figure 6; abstract; column 2, line 47 – column 4, line 21 or figure 1; column 1, lines 5-16; column 2, lines 24-30), comprising:

- a. a spark gap **18** presenting intrinsic capacity to break follow current
- b. an improvement member **16** for improving the follow current breaking power, which member co-operates with the spark gap, in such a manner that the device presents resultant follow current breaking capacity that is significantly greater than said intrinsic capacity,

the method being characterized in that for equipment presenting an assumed short-circuit current that exceeds said intrinsic breaking capacity of the spark gap, the improvement member comprises limiter means **16** for limiting the magnitude of the electrical current passing through the spark gap, said limiter means being specifically designed and connected relative to the spark gap to limit the magnitude of the follow current in such a manner that said follow current can be interrupted by the intrinsic follow current breaking capacity of the spark gap alone (figure 6; abstract; column 2, line 47 – column 4, line 21 or figure 1; column 1, lines 5-16; column 2, lines 24-30).

Consider **claims 2 and 9**, Engel et al. teaches that the improvement member **16** comprises a resistive element connected in series with the spark gap **18** (figure 6; column 2, line 47 – column 3, line 31 or figure 1).

Consider **claim 3**, Engel et al. teaches that the resistive element **16** presents substantially no self-induction (figure 6; column 2, line 47 – column 3, line 31 or figure 1).

Consider **claims 4, 10 and 13**, Engel et al. teaches that the resistive element **16** is formed by an electrical resistor (figure 6; column 2, line 47 – column 3, line 31 or figure 1).

Consider **claims 5, 11 and 14**, Engel et al. teaches that the spark gap is connected to the equipment by electrical connection means (contact terminal) **22**, said connection means forming the resistive element (a contact terminal is a resistive element because it has a resistance) (figure 6; column 2, line 47 – column 3, line 31 or figure 1).

Consider **claim 6**, Engel et al. teaches that the improvement member **16** is constituted exclusively by the resistive element **16** (figure 6; column 2, line 47 – column 3, line 31 or figure 1).

Consider **claim 7**, Engel et al. teaches that the device constitutes a lightning arrestor **14** (figure 6; column 1, lines 45-63; column 6, lines 22-31 or figure 1).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. **Kawiecki (US 3,448,337)** and **Miske (US 3,538,388)** both teach a protector device for protecting electrical equipment against transient surges, that comprises a spark gap and an improvement member. **Palmer (US 3,735,259)**, which was supplied in the applicant's information disclosure statement, teaches a connection means that forms a resistive element.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Ieva whose telephone number is 571-270-1270. The examiner can normally be reached on M-TH (7:30am - 5pm), and F (7:30am - 4pm), EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Sherry can be reached on 571-272-2084. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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MICHAEL SHERRY
SUPERVISORY PATENT EXAMINER